

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Electricity Market Design and Structure)	Docket No. RM01-12-000
)	
Avista Corporation)	Docket No. RT01-15-000
Montana Power Corporation)	
Nevada Power Corporation)	
Portland General Electric Company)	
Puget Sound Energy, Inc.)	
Sierra Pacific Power Company)	
)	
Avista Corporation)	Docket No. RT01-35-000
Bonneville Power Administration)	
Idaho Power Company)	
Montana Power Company)	
Nevada Power Company)	
PacifiCorp)	
Portland General Electric Company)	
Puget Sound Energy, Inc.)	
Sierra Pacific Power Company)	
)	
California Independent System Operator Corporation)	Docket No. RT01-85-000
)	
Midwest Independent System Operator)	Docket No. RT01-87-000
)	
Alliance Companies)	Docket No. RT01-88-000
)	
Regional Transmission Organizations)	Docket No. RT01-100-000
)	
Arizona Public Service Company)	Docket Nos. RT02-1-000
El Paso Electric Company)	EL02-9-000
Public Service Company of New Mexico)	
Tucson Electric Power Company)	
WestConnect RTO, LLC)	

**MOTION FOR LEAVE TO FILE ONE DAY
OUT OF TIME AND COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION**

Pursuant to the Federal Energy Regulatory Commission's ("Commission")
Notice Inviting Comments on Wholesale Market Activities, dated November 20,

2001, the California Municipal Utilities Association ("CMUA")¹ respectfully submits these brief Comments² in response to certain of the issues posited in the Notice. As directed by the Commission, CMUA's Comments are tailored to wholesale market activities in the West.

I. EXECUTIVE SUMMARY

CMUA's view on the proper wholesale market structure, particularly what tasks RTOs should and should not do, is strongly influenced by its members' experience both before and after start-up of the California Independent System Operator Corporation ("CAISO"). CMUA's core belief is that grid operators are not good market makers. As such, the grid operator's primary responsibility should be reliability and open access to the grid, not development and operation of markets. Specific to the functions spelled out in the Notice, the following should be the functions of an RTO or other independent entity:

- (1) Security Coordination:
- (2) OASIS Administration and transmission capacity calculations;
- (3) Regional Transmission Facility Planning; and
- (4) Tariff Administration and Design.

¹CMUA electric utility members are the Cities of Alameda, Anaheim, Azusa, Banning, Burbank, Colton, Glendale, Healdsburg, Lodi, Lompoc, Los Angeles, Needles, Palo Alto, Pasadena, Redding, Riverside, Roseville, Santa Clara, and Vernon, as well as the Imperial, Merced, Modesto, Turlock Irrigation Districts, the Northern California Power Agency, Southern California Public Power Authority, Transmission Agency of Northern California, Lassen Municipal Utility District, Sacramento Municipal Utility District, the Trinity and Truckee Donner Public Utility Districts, the Metropolitan Water District of Southern California, and the City and County of San Francisco, Hetch Hetchy.

²CMUA is a party to FERC Docket No. RT01-85-000, that addressed issues relevant to those raised in the Notice. More broadly, CMUA stated its position on the proper functions for an RTO in its Comments and Reply Comments in FERC Docket No. RM99-02-000.

RTOs or sub-regional independent organizations should also be responsible for transmission clearance requests and maintenance and outage coordination, and system contingency response.

RTO's should not be responsible for markets. As such, ancillary service requirements should be the responsibility of load serving entities. Administration of energy imbalances can be handled in a number of ways; most importantly, reliance on real-time imbalance markets should be minimized by proper tariff design. Finally, with respect to market monitoring, the RTO will clearly have access to a wealth of information that will assist assessment of market performance and activities. However, this will not represent a substitute for active Commission oversight.

II. MOTION FOR LEAVE TO FILE COMMENTS ONE DAY OUT OF TIME AND COMMENTS

CMUA respectfully moves for leave to file these Comments one day out of time. CMUA tendered these Comments in a timely fashion on December 7, 2001, using the e-Filing capabilities recently made available by the Commission. However, because the Commission's Notice in this proceeding directed parties to submit comments relevant to their geographic region, CMUA only identified the dockets relevant to the Western United States when submitting the Comments electronically. This did not match identically with the caption of the proceeding, which included a host of other dockets, and therefore the tendered Comments were rejected.

CMUA's filing of these Comments one day out of time will not prejudice any party. Further, CMUA will take the record in this proceeding as it find it. CMUA's Comments reflect the views of a number of public power market participants in the West on issues relevant to the questions posited by the Commission in its notice, and therefore will more fully develop the record and assist the Commission's decisionmaking. Therefore, CMUA respectfully moves for leave to file these Comments one day out of time.

A. RTO's Should Focus on Reliability and Avoid Commercial Entanglements.

Especially as applied to the West, which operated on a successful bilateral model prior to experiments with centralized market institutions, CMUA urges the Commission to separate a number of wholesale market activities enumerated in Order No. 2000, and remove them from the responsibilities assigned to the RTO. CMUA's clear preference is to ensure that the grid operator does not become entangled in market administration, and thus market outcomes.

CMUA believes that the benefits of RTOs can best be realized if RTOs focus on the critical core functions of ensuring reliable and non-discriminatory access to the transmission grid. Specifically, fulfilling its reliability obligation means the ISO would be responsible for:

- If the RTO is the Control Area, real time monitoring of control area load, reserves, ACE, interchange, and system frequency;
- Longer term system monitoring such as daily and next day planning;
- Transmission clearance requests, and maintenance and outage coordination;
- System contingency response;
- OASIS administration and ATC determination;
- Transmission scheduling and tariff administration; and

- Regional transmission planning.

The first priority of an RTO should be these security functions.

If this model is adopted, CMUA's experience in California suggests that independent grid operators must be provided necessary enforcement powers to ensure reliable operation of the regional transmission grid. At least for the large investor-owned utilities in California, the restructured industry has moved from a model in which control area, generation, and distribution company functions were consolidated, to a model in which the Control Area does not own generation, and in which merchant plants controlling the bulk of the generation do not have the same incentives as the former utilities to ensure reliable system operation is not compromised. The independent grid operator must be provided the necessary authorities to ensure reliable system operation. These authorities must include enforcement powers, and may include penalties and other sanctions to enforce compliance with reliability standards and criteria.

Responsibilities of RTOs, at least initially, should not include administration of markets for energy, ancillary services, or other products.

CMUA takes this position advisedly, and for several reasons.

First and foremost, CMUA's experience is that the independence and credibility of the transmission organization are threatened if the RTO is forced to procure products or otherwise take positions in competitive markets. This is a risky enterprise, and also places the RTO in an adversarial position to other market participants who may also be procuring those same services, while at the same time relying upon the RTO for open and non-discriminatory access to the

transmission grid. This undermines the RTO's ability to fulfill its primary obligations.

Second, development of these competitive markets as an integrated part of the RTO drives up complexity and cost. Increasing complexity and costs can do nothing but hinder expeditious development of RTOs.

Third, development of markets integrated with the RTO function has the practical effect of hindering development of privately run markets and self-provision. Once the expense of establishing these RTO-run markets, with necessary systems and hardware, is incurred, the RTO has a vested interest in ensuring that throughput through its markets is maximized. Again, the independence of the RTO is threatened because the RTO has a stake in the outcome of the market, and who uses (or doesn't use) its markets.

CMUA recognizes that many market participants want the RTO to provide for one-stop-shopping to allow the energy commodity to be combined with other necessary services that make up the delivered product. CMUA also believes that this may be a worthy goal in the longer term, or that it may be necessary for the RTO to be the provider of last resort for ancillary services. CMUA's practical experience, however, leads it to the conclusion that placing that goal above all others leads to the adverse consequences described above. At a minimum, if the RTO does provide these services, it must charge the costs of providing those services to those that use them, not to those that self-provide. In practical application, the RTO cannot be all things to all people. CMUA believes that the pitfalls described above outweigh perceived advantages of one-stop-shopping.

Specific to factors relevant to the Western market, CMUA's position is influenced by the fact that its members have been able to self-provide ancillary services and procure other products in markets without RTOs, for several years. Further, there is no evidence that self-provision of ancillary and other necessary reliability services jeopardizes reliability. CMUA supports the role of the RTO in establishing standards and criteria for levels of these necessary services, and the role of the RTO for enforcing compliance with those criteria. Within those parameters, and with necessary enforcement mechanisms, self-provision is consistent with reliable operation of the grid.

B. RTOs or Some Independent Entity Must Have the Primary Responsibility for Regional Transmission Planning and Expansion.

RTOs must have the responsibility for regional transmission planning, and the commensurate responsibility to ensure that necessary transmission expansion is undertaken to ensure reliability. If grid operation and transmission ownership are separated, a collaborative approach between the RTO and Transmission Owners may be necessary. However, the underlying principle must not be undermined. The RTO must have the means to perform independent analysis to meet long and short term transmission needs within the area encompassed by the RTO, in a cost-effective manner and consistent with relevant regional and local standards.

With respect to system expansion, RTOs must be provided the necessary teeth to ensure that needed transmission expansions are built. This can be

through the power to build incremental facilities, or through the power to order transmission owners to built specific transmission projects by contract.

This position goes to the heart of the independence of the RTO, because system expansion and interconnection of new facilities can have both reliability and economic consequences on market participants. It is inappropriate to vest this responsibility with any party that has a stake in the competitive market.

C. The Market Structure Must Accommodate Diverse Market Participants.

Tariffs administered by RTOs, sub-regional organizations, or other market institutions must be flexible enough to accommodate all market participants. In California and elsewhere, many utilities have divested generation, or spun-off generation asset to unregulated affiliates. Certain of these actions were presumed in the overall system design and Tariff of the CAISO, and that was a mistake. A large segment of the industry, represented by CMUA members, chose to retain a vertically integrated structure. So did the rest of the West. Given the diversity represented in the Western Interconnection, it is likely that the different policy choices will be made as between California, Washington, New Mexico, and Montana. Tariffs administered by an RTO should not presuppose one type of structure for the market or for market participants, but should accommodate as many market players as possible. This goal can best be accomplished if RTO's stick to reliability and avoid administration of complex market mechanisms.

III. CONCLUSION

The perspectives of CMUA members reflected above combine their long-standing commitment of principles of open access, their experience in the West, and their experience in the formation of new market institutions in California, including the CAISO. CMUA and its members look forward to active participation in upcoming debates before the Commission on these issues.

Dated: December 10, 2001

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing document to be served by First Class mail upon each party designated on the official service list compiled by the Secretary of the Commission in this proceeding.

Dated at Sacramento, California, this 10th day of December, 2001.

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